



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

167 rel application to :
Reissue U.S. 4,912,155 :
Serial No. 07/714,441 : Art Unit: 122
Filed: June 13, 1991 : Examiner: Daus
For: ANTIOXIDANT AROMATIC FLURO- :
PHOSPHITES :
:

DECLARATION OF E.E. SPIELMAN, JR. UNDER 37 C.F.R. 1.175 (d)

Honorable Commissioner of Patents and Trademarks

Washington, D.C. 20231

Sir:

I, Edgar E. Spielman, Jr., being duly warned, hereby declare:

1. I am a patent attorney employed by Ethyl Corporation in Baton Rouge, Louisiana. In early 1990 I was assigned to handle Ethyl's antioxidant technology, which would include fluorophosphites of U.S. Pat. No. 4,912,155. My responsibilities included the prosecution of foreign applications counterpart to the '155 patent.

2. On February 6, 1990 Ethyl received a letter from the agent handling the European Patent Office application. The agent's letter enclosed the EPO Examiner's first Office Action, to which a response was due by May 24, 1990. I did not examine the Office Action, but the matter was docketed for a response. In that action, the EPO Examiner cited the following four references:

U.S. 3,254,050

U.S. 3,281,506

USSR 3,008,574

Kosolapoff and Mainer, "Organic Phosphorous Compounds," Wiley Interscience, N.Y., Vol. 5, pp. 148-9 and pp. 292-5 (1973)

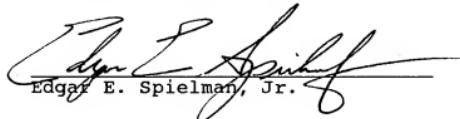
3. Some time between April 1, 1990 and May 14, 1990 I reviewed the EPO file in order to respond to the EPO Office Action. At that time, I reviewed the references cited by the EPO Examiner,

and noted also the EPO search report in the file. I also learned that the U.S. application already had issued as U.S. 4,912,155. On May 14, 1990 I requested an extension of time to respond to the outstanding Office Action in the EPO, which was granted.

4. By June 11, 1990 Ms. Patricia J. Hogan, an Ethyl patent agent, was assigned responsibility for Ethyl's antioxidant technology, and I had a discussion with her concerning the references cited by the EPO Examiner.

5. During further discussions, Ms. Hogan and I compared the prior art cited by the EPO and that cited during the prosecution of the '155 patent. I also brought up the matter of the additional prior art cited by the EPO versus that cited in the U.S. prosecution to Mr. Philip Pippenger, Ethyl's patent counsel. Thereafter, Ethyl requested outside patent counsel to review the matter.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Edgar E. Spielman, Jr.

February 5, 1992